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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,887	11/15/2000	Barry Jay Weber	RCA90,206	5241
24498 7590 08/31/2007 JOSEPH J. LAKS, VICE PRESIDENT THOMSON LICENSING LLC PATENT OPERATIONS PO BOX 5312 PRINCETON, NJ 08543-5312			EXAMINER LAZARO, DAVID R	
			ART UNIT 2155	PAPER NUMBER
			MAIL DATE 08/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/712,887

Applicant(s)

WEBER ET AL.

Examiner

David Lazaro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06/19/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-16 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-16 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is in response to the amendment filed 06/19/2007.
2. Claims 13 and 14 were amended.
3. Claims 1-3 and 17-25 are canceled.
4. Claim 26 is newly added.
5. Claims 4-16 and 26 are pending in this office action.

### ***Response to Amendment***

6. The objection to claims 13 and 25 are moot in view of applicant's amendment.
7. The rejection of claims 2-16 and 22-25 under 35 USC 112, first paragraph, is withdrawn based on applicant's amendment.
8. The rejection of claims 13, 14, 22-24 and 25 under 35 USC 112, second paragraph, is withdrawn based on applicant's amendment.
9. Applicant's arguments with respect to claims 4-16 and 26 have been considered but are, in part, moot in view of the new ground(s) of rejection. The examiner addresses the relevant arguments in the Response to Arguments section.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4-13, 14, 16, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,778,187 by Monteiro et al. (Monteiro) in view of U.S. Patent 6,411,992 by Srinivasan et al. (Srinivasan).

12. With respect to claim 13, Monteiro teaches a system for processing broadcast multimedia program content and advertisements to provide a composite program datastream having multimedia data content and user targeted advertisements to multiple different users (Col. 1 lines 5-15), comprising:

a processor operable to concurrently receive broadcast multimedia program content from multiple sources (Col. 4 lines 18-32), said broadcast multimedia program content comprises at least one of (a) streamed audio data, (b) streamed video data, (c) voice representative data, (d) voicemail data, and (e) a radio or video broadcast (Col. 4 lines 18-32 of Monteiro);

a scheduler operable to schedule time of insertion of a designated advertisement into selected broadcast multimedia program content (Col. 4 lines 32-35Col. 16 lines 29-40), said scheduler being configured to receive and pre-cache advertisements from multiple sources to provide candidate advertisements for selection of said designated advertisement for insertion in said selected multimedia program content at a scheduled insertion time (Col. 4 lines 31-54 and Col. 1 lines 11-15 of Monteiro: Candidate paid commercial advertising are pre-cached at playback/control workstations. Being akin to TV and radio indicates multiple sources); and

a multiplexer operable to provide multiple users with individualized composite program datastreams by performing in parallel for multiple users: insertion of a

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designated advertisement into a selected multimedia program content at a scheduled insertion time to form a composite program datastream (Col. 7 lines 60-65, *Interpreted to mean insertion may occur at the Media Server*); and coupling of said composite program datastream to a corresponding user of the multiple users (Col. 5 line 65 – Col. 6 line 5).

Monteiro does not explicitly disclose the processor determining authorization of the multiple broadcast sources. Srinivasan teaches a similar system for broadcasting content with scheduled advertisement insertion (See abstract). The content to be broadcast is received from multiple sources at the broadcast server (Col. 4 lines 43-51). The broadcast system requires authorization in order to access the broadcast server, such authorization coming through the use of a transmitted ID (Col. 5 lines 40-46).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the authorization technique as taught by Srinivasan, to improve the broadcast system of Monteiro for the predictable result of requiring authorization to access the broadcast server.

13. With respect to claim 14, Monteiro further teaches additionally comprising a conditional access processor to determine the authorization of multiple broadcast sources and, said conditional access processor determines authorization of a broadcast source to provide broadcast multimedia program content based a broadcaster ID which is transmitted by a broadcast source (In Srinivasan: Col. 4 lines 40-46).

14. With respect to Claim 16, Monteiro further teaches said multiplexer repeats said composite program datastream by mapping stored data comprising said composite

program datastream to provide multiple stored copies of said composite program datastream for coupling to multiple users to enable scaleable expansion of broadcast of said composite program datastream. (Col. 5 line 65 – Col. 6 line 5 and Col. 3 lines 55-59 of Monteiro).

15. With respect to claim 26, Monteiro further teaches wherein said conditional access processor permits said broadcast source to be broadcasted to said multiple users by decrypting a program stream from said broadcaster for broadcast (In Monteiro: Col. 4 lines 25-29) and prevents said program stream from being broadcasted to said multiple users in view of a validation routine that considers the time of a broadcast (In Srinivasan: Col. 6 lines 5-8, programs include a start and end time).

16. With respect to claim 4, Monteiro further teaches said scheduler schedules insertion of said designated advertisement into said multimedia program content based on at least one of (a) scheduling information provided by a broadcast source of said selected broadcast multimedia program, and (b) scheduling information provided by a source of said designated advertisement (In Srinivasan: Col. 8 lines 9-30).

17. With respect to claim 5, Monteiro further teaches wherein said scheduling information contains advertisement scheduling information covering multiple broadcast multimedia programs (In Srinivasan: Col. 7 line 46- Col. 8 line 30).

18. With respect to claim 6, Monteiro further teaches wherein said scheduling information provided by a broadcast source comprises at least one of (a) information indicating time slots available for advertisement insertion in said broadcast multimedia program, (b) markers in said selected broadcast multimedia program indicating an

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advertisement insertion time slot, and (c) information for identifying advertisement insertion time slots from time stamp indications (In Srinivasan: Col. 7 line 46- Col. 8 line 30)

19. With respect to Claim 7, Monteiro further teaches said multiplexer repeats said composite program datastream by mapping stored data comprising said composite program datastream to provide multiple stored copies of said composite program datastream for coupling to multiple users to enable scaleable expansion of broadcast of said composite program datastream (Col. 5 line 65 – Col. 6 line 5 and Col. 3 lines 55-59 of Monteiro).

20. With respect to Claim 8, Monteiro further teaches said multiplexer tracks a user connection (Col. 8 lines 4-11 and Fig. 5 of Monteiro) and maintains a database of user connection related statistics (Col. 3 lines 39-54 of Monteiro) comprising at least one of (a) user favorite program sources (Col. 3 lines 50-54 of Monteiro), (b) number of advertisements broadcast (See Claim 5 and 6 of Monteiro), (c) number of users receiving said composite program datastream (Col. 3 lines 42-44 of Monteiro), and (d) length of user connection to a particular composite program datastream (Col. 3 lines 50-54 of Monteiro).

21. With respect to claim 9, Monteiro further teaches said multiplexer dynamically reallocates advertisements targeted to a user during broadcast of said composite program datastream in response to a command by selecting an advertisement from a plurality of available advertisements of duration suitable for a time slot at said scheduled insertion time (In Srinivasan: Col. 9 lines 11-47).

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22. With respect to claim 10, Monteiro further teaches wherein: a locally sourced advertisement is selected for said time slot in preference to a non-locally sourced advertisement (In Srinivasan: Col. 9 lines 11-47 - demographic based advertisement includes selection based on location).

23. With respect to Claim 11, Monteiro further teaches an error processor operable to parse said composite program datastream to detect error, and including an error concealment function operable to reduce the consequences of a detected error (Col. 7 lines 12-31 of Monteiro).

24. With respect to Claim 12, Monteiro further teaches a user profile database operable to allocate one of a plurality of available different advertisements for delivery to an individual user based on previously compiled user preference data in said user profile database (Col. 16 lines 34-41 of Monteiro); and a data acquisition processor operable to compile user preference information used in said user profile database based on prior user program selection history (Col. 16 lines 34-41 of Monteiro).

25. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro in view of Srinivasan and in further view of U.S. Patent 5,734,589 by Kostreski et al. (Kostreski).

26. With respect to Claim 15, Monteiro does not explicitly disclose said conditional access processor includes a decryption function to decrypt at least one of (a) encrypted broadcast multimedia program content, and (b) an encrypted authorization code or password. Kostreski teaches said conditional access processor includes a decryption



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function to decrypt at least one of (a) encrypted broadcast multimedia program content, and (b) an encrypted authorization code or password (In Kostreski: Col. 21 lines 8-16 and Col. 25 lines 50-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the system disclosed by Monteiro in view if Srinivasan and modify it as indicated by Kostreski such that the system further comprises Kostreski teaches said conditional access processor includes a decryption function to decrypt at least one of (a) encrypted broadcast multimedia program content, and (b) an encrypted authorization code or password. One would be motivated to have this, as there is need for providing the advantages of the system to authorized broadcast sources for the benefit of those using the system (In Kostreski: Col. 26 lines 39-46 and Col. 3 lines 54-58).

### ***Response to Arguments***

27. Applicant's argue on pages 7-8 of the remarks - "*Claim 13 recites, inter alia, the scheduler being configured to receive and pre-cache advertisements from multiple sources to provide candidate advertisements for selection.... Contrary to the Examiner's assertion, Monteiro neither discloses nor suggests this feature of the claim invention... this disclosure does not suggest or disclose the receiving and pre-caching of advertisements form multiple sources to provide candidate advertisements for selection.*"

- a. Examiner's response - Col. 4 lines 43-54 indicates that the advertisements are located at the control server of Monteiro and thus it is inherent that advertisements were received in some form and pre-cached at the control server.

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Col. 1 lines 11-15 states that the system is provide services akin to radio or television with commercial programming content adjusted based on the individual user. One skilled in the art would know that radio and television commercial programming comes from multiple services and would therefore anticipate that the system of Monteiro is intended to have multiple sources for the "paid commercial messages". Applicant's arguments are not persuasive.

### ***Conclusion***

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Lazaro  
August 27, 2007



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SUPERVISORY PATENT EXAMINER